

SENATE BILL No. 554

By Committee on Assessment and Taxation

2-11

AN ACT relating to taxation; enacting the Kansas utility excise tax act; amending K.S.A. 12-1770a, 12-1774, 13-13a38, 79-34,148 and 79-3647 and K.S.A. 2001 Supp. 74-50,114, 74-8017, 74-8927, 74-8929, 74-8937, 74-8938, 79-34,147, 79-3602 and 82a-2101 and repealing the existing sections; also repealing K.S.A. 12-189 and 13-13a39.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The provisions of sections 1 through 8 of this act shall be known and may be cited as the Kansas utility excise tax act, and the tax herein imposed shall be in addition to all other privilege or excise taxes imposed by the state of Kansas or by any political subdivision thereof or by a municipal university.

New Sec. 2. For the purposes of this act: (a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the utility retailer for the selling or furnishing at retail of water or energy utilities, as herein defined, purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale it shall be deducted in arriving at the purchase price;

(b) the meaning ascribed to words and phrases in K.S.A. 79-3602, and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided. The provisions of K.S.A. 79-3601 through 79-3631, 79-3643, 79-3646 through 79-3648, 79-3650 through 79-3652, and K.S.A. 2001 Supp. 79-3660 through 79-3664, and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act;

(c) "utility retailer" means every person engaged in the business of selling or furnishing of water or energy utilities at retail;

(d) "utility retailer doing business in this state" or any like term, means any utility retailer having, using or maintaining within this state, directly or by a subsidiary, an office, facility, distribution house, distribution equipment, sales house, warehouse or other place of business, or

1 any agent or other representative operating within this state under the
2 authority of the retailer or its subsidiary, irrespective of whether such
3 place of business or agent is located here permanently or temporarily, or
4 whether such utility retailer or subsidiary is admitted to do business within
5 the state; and

6 (e) “energy utilities” means electricity, natural gas, LP gas, propane
7 gas, coal, wood and other fuel sources used for the production of heat or
8 lighting.

9 New Sec. 3. For the privilege of engaging in the business of selling
10 or furnishing water or energy utilities at retail in this state, the gross
11 receipts from the sale or furnishing of water or energy utilities, which
12 sale is not otherwise exempt from taxation under the provisions of this
13 act, and whether furnished by municipally or privately owned utilities is
14 hereby levied and there shall be collected and paid a tax at the rate of
15 4.9%, and within a redevelopment district established pursuant to K.S.A.
16 74-8921, and amendments thereto, there is hereby levied and there shall
17 be collected and paid an additional tax at the rate of 2% until the earlier
18 of the date the bonds issued to finance or refinance the redevelopment
19 project have been paid in full or the final scheduled maturity of the first
20 series of bonds issued to finance any part of the project upon.

21 New Sec. 4. (a) All revenue collected or received by the director of
22 taxation from the taxes imposed by this act shall be deposited daily with
23 the state treasurer. The state treasurer shall credit all revenue received
24 from this act, less amounts withheld as provided in subsection (b) and
25 amounts credited as provided in subsections (c) and (d), to the state gen-
26 eral fund.

27 (b) A refund fund, designated as “utility excise tax refund fund” not
28 to exceed \$100,000 shall be set apart and maintained by the director from
29 collections and estimated tax collections and held by the state treasurer
30 for prompt payment of all utility excise tax refunds. Such fund shall be in
31 such amount, within the limit set by this section, as the director shall
32 determine is necessary to meet current refunding requirements under
33 this act. In the event such fund as established by this section is, at any
34 time, insufficient to provide for the payment of refunds due claimants
35 thereof, the director shall certify the amount of additional funds required
36 to the director of accounts and reports who shall promptly transfer the
37 required amount from the state general fund to the utility excise tax re-
38 fund fund, and notify the state treasurer, who shall make proper entry in
39 the records.

40 (c) The state treasurer shall credit $\frac{5}{8}$ s of the revenue collected or
41 received from the tax imposed by this act, and amendments thereto, at
42 the rate of 4.9%, and deposited as provided in subsection (a), exclusive
43 of amounts credited pursuant to subsection (d), in the state highway fund.

1 (d) The state treasurer shall credit all revenue collected or received
2 from the tax imposed by this act, as certified by the director, from tax-
3 payers doing business within that portion of a redevelopment district oc-
4 cupied by a redevelopment project that was determined by the secretary
5 of commerce and housing to be of statewide as well as local importance
6 or will create a major tourism area for the state as specified in subsection
7 (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, to the city bond
8 finance fund, which fund is hereby created. The provisions of this sub-
9 section shall expire when the total of all amounts credited hereunder and
10 under subsection (d) of K.S.A. 79-3620 and subsection (d) of K.S.A. 79-
11 3710, and amendments thereto, is sufficient to retire the special obliga-
12 tion bonds issued for the purpose of financing all or a portion of the costs
13 of such redevelopment project.

14 New Sec. 5. All sales of water or energy utilities which were, prior
15 to January 1, 2003, exempt from the tax imposed by the Kansas retailers'
16 sales tax and by the Kansas compensating tax acts shall be exempt from
17 the tax imposed by the Kansas utility excise tax act.

18 New Sec. 6. (a) Utility retailers shall make returns to the director at
19 the times prescribed by this section upon forms prescribed and furnished
20 by the director stating: (1) The name and address of the utility retailer;
21 (2) the total amount of gross sales of all water or energy utilities by the
22 utility retailer during the period for which the return is made; (3) the
23 total amount received during the period for which the return is made on
24 charge and time sales of water or energy utilities made prior to the period
25 for which the return is made; (4) deductions allowed by law from such
26 total amount of gross sales and from total amount received during the
27 period for which the return is made on such charge and time sales; (5)
28 receipts during the period for which the return is made from the total
29 amount of sales of water or energy utilities made during such period in
30 the course of such business, after deductions allowed by law have been
31 made; (6) receipts during the period for which the return is made from
32 charge and time sales of water or energy utilities made prior to such
33 period in the course of such business, after deductions allowed by law
34 have been made; and (7) gross receipts during the period for which the
35 return is made from sales of water or energy utilities made in the course
36 of such business upon the basis of which the tax is imposed. The return
37 shall include such other pertinent information as the director may require.
38 In making such return, the utility retailer shall determine the market
39 value of any consideration, other than money, received in connection with
40 the sale of any water or energy utilities in the course of the business and
41 shall include such value in the return. Such value shall be subject to
42 review and revision by the director as hereinafter provided. Refunds
43 made by the utility retailer during the period for which the return is made

1 on account of water or energy utilities returned to the utility retailer shall
2 be allowed as a deduction under subsection (4) of this section in case the
3 utility retailer has theretofore included the receipts from such sale in a
4 return made by such utility retailer and paid taxes therein imposed by
5 this act. The utility retailer, at the time of making such return, shall pay
6 to the director the amount of tax herein imposed, except as otherwise
7 provided in this section. The director may extend the time for making
8 returns and paying the tax required by this act for any period not to exceed
9 60 days under such rules and regulations as the secretary of revenue may
10 prescribe. The utility retailer shall file a return for each month on or
11 before the 25th day of the following month. When the total tax liability
12 exceeds \$32,000 in any calendar year, the utility retailer shall be required
13 to pay the sales tax liability for the first 15 days of each month to the
14 director on or before the 25th day of that month. Any such payment shall
15 accompany the return filed for the preceding month. A utility retailer will
16 be considered to have complied with the requirements to pay the first 15
17 days' liability for any month if, on or before the 25th day of that month,
18 the utility retailer paid 90% of the liability for that 15-day period, or 50%
19 of such utility retailer's liability in the immediate preceding calendar year
20 for the same month as the month in which the 15-day period occurs
21 computed at the rate applicable in the month in which the 15-day period
22 occurs, and, in either case, paid any underpayment with the payment
23 required on or before the 25th day of the following month. Such utility
24 retailers shall pay their sales tax liabilities for the remainder of each such
25 month at the time of filing the return for such month. Determinations of
26 amounts of liability in a calendar year for purposes of determining filing
27 requirements shall be made by the director upon the basis of amounts of
28 liability by those utility retailers during the preceding calendar year or by
29 estimates in cases of utility retailers having no previous sales tax histories.

30 (b) The director may require the filing of returns and payment of tax
31 by utility retailers using electronic methods.

32 (c) The secretary of revenue may adopt rules and regulations neces-
33 sary to efficiently implement the provisions of this act.

34 New Sec. 7. (a) A utility excise tax is hereby imposed by every city,
35 county or municipal university imposing a retailers' sales tax. The rate of
36 any such tax shall be fixed at the same rate as such city's, county's or
37 university's retailers' sales tax. Any city, county or municipal university
38 imposing a utility excise tax is prohibited from administering or collecting
39 such tax locally, but shall utilize the services of the state department of
40 revenue to administer, enforce and collect such tax. Such tax shall be
41 identical in its application and exemptions therefrom to the Kansas utility
42 excise tax, except as provided in this act and all laws and rules and reg-
43 ulations of the state department of revenue relating to the Kansas utility

1 excise tax shall apply to such local utility excise tax insofar as the same
2 may be made applicable.

3 (b) The secretary of revenue is authorized to administer, enforce and
4 collect a city's, county's or municipal university's utility excise tax and to
5 adopt such rules and regulations necessary for the efficient and effective
6 administration, enforcement and collection thereof. The state director of
7 taxation shall cause such taxes to be collected within the boundaries of
8 such taxing subdivision at the same time and in the same manner provided
9 for the collection of the state utility excise tax. All moneys collected by
10 the director of taxation pursuant to the provisions of this section shall be
11 credited to the city and county utility excise tax fund or to the municipal
12 utility excise tax fund, which funds are hereby established in the state
13 treasury. Any refund due on any city's, county's or municipal university's
14 utility excise tax collected pursuant to this section shall be paid out of the
15 utility excise refund fund and reimbursement to such fund shall be made
16 by the director of taxation from collections of local utility excise tax re-
17 venue. All moneys collected pursuant to this section for a city or county
18 shall be remitted at least quarterly by the state treasurer to the treasurer
19 of such city, county or university.

20 (c) All revenue received by any county treasurer from a countywide
21 utility excise tax shall be apportioned among the county and each city
22 located in such county in the same manner as provided in K.S.A. 12-192,
23 and amendments thereto, for the apportionment of revenue received
24 from a countywide retailers' sales tax.

25 New Sec. 8. The following shall be subject to the utility excise tax
26 levied and collected by all cities, counties and municipal universities un-
27 der the provisions of this act:

28 (a) All sales of natural gas, electricity, heat and water delivered
29 through mains, lines or pipes to residential premises for noncommercial
30 use by the occupant of such premises and all sales of natural gas, elec-
31 tricity, heat and water delivered through mains, line or pipes for agricul-
32 tural use;

33 (b) All sales of propane gas, LP-gas, coal, wood and other fuel sources
34 for the production of heat or lighting for noncommercial use of an oc-
35 cupant of residential premises.

36 Sec. 9. K.S.A. 12-1770a is hereby amended to read as follows: 12-
37 1770a. As used in this act, unless the context clearly shows otherwise:

38 (a) "Auto race track facility" means: (1) An auto race track facility and
39 facilities directly related and necessary to the operation of an auto race
40 track facility, including, but not limited to, grandstands, suites and viewing
41 areas, concessions, souvenir facilities, catering facilities, visitor and retail
42 centers, signage and temporary hospitality facilities, but excluding (2) ho-
43 tels, motels, restaurants and retail facilities, not directly related to or nec-

1 essary to the operation of such facility.

2 (b) “Base year assessed valuation” means the assessed valuation of all
3 real property within the boundaries of a redevelopment district on the
4 date the redevelopment district was established.

5 (c) “Blighted area” means an area which:

6 (1) Because of the presence of a majority of the following factors,
7 substantially impairs or arrests the development and growth of the mu-
8 nicipality or constitutes an economic or social liability or is a menace to
9 the public health, safety, morals or welfare in its present condition and
10 use:

11 (A) A substantial number of deteriorated or deteriorating structures;

12 (B) predominance of defective or inadequate street layout;

13 (C) unsanitary or unsafe conditions;

14 (D) deterioration of site improvements;

15 (E) tax or special assessment delinquency exceeding the fair market
16 value of the real property;

17 (F) defective or unusual conditions of title including but not limited
18 to cloudy or defective titles, multiple or unknown ownership interests to
19 the property;

20 (G) improper subdivision or obsolete platting or land uses;

21 (H) the existence of conditions which endanger life or property by
22 fire or other causes; or

23 (I) conditions which create economic obsolescence; or

24 (2) has been identified by any state or federal environmental agency
25 as being environmentally contaminated to an extent that requires a re-
26 medial investigation; feasibility study and remediation or other similar
27 state or federal action; or

28 (3) previously was found by resolution of the governing body to be a
29 slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments
30 thereto.

31 (d) “Conservation area” means any improved area comprising 15%
32 or less of the land area within the corporate limits of a city in which 50%
33 or more of the structures in the area have an age of 35 years or more,
34 which area is not yet blighted, but may become a blighted area due to
35 the existence of a combination of two or more of the following factors:

36 (1) Dilapidation, obsolescence or deterioration of the structures;

37 (2) illegal use of individual structures;

38 (3) the presence of structures below minimum code standards;

39 (4) building abandonment;

40 (5) excessive vacancies;

41 (6) overcrowding of structures and community facilities; or

42 (7) inadequate utilities and infrastructure.

43 (e) “De minimus” means an amount less than 15% of the land area

1 within a redevelopment district.

2 (f) “Developer” means any person, firm, corporation, partnership or
3 limited liability company, other than a city.

4 (g) “Eligible area” means a blighted area, conservation area, enter-
5 prise zone, historic theater or major tourism area.

6 (h) “Enterprise zone” means an area within a city that was designated
7 as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107
8 through 12-17,113, and amendments thereto, prior to its repeal and the
9 conservation, development or redevelopment of the area is necessary to
10 promote the general and economic welfare of such city.

11 (i) “Environmental increment” means the increment determined
12 pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

13 (j) “Environmentally contaminated area” means an area of land hav-
14 ing contaminated groundwater or soil which is deemed environmentally
15 contaminated by the department of health and environment or the United
16 States environmental protection agency.

17 (k) “Feasibility study” means a study which shows whether a rede-
18 velopment project’s benefits and tax increment revenue and other avail-
19 able revenues under K.S.A. 12-1774 (a)(1) are expected to exceed or be
20 sufficient to pay for the redevelopment project costs.

21 (l) “Historic theater” means a building constructed prior to 1940
22 which was constructed for the purpose of staging entertainment, includ-
23 ing motion pictures, vaudeville shows or operas, that is operated by a
24 nonprofit corporation and is designated by the state historic preservation
25 officer as eligible to be on the Kansas register of historic places or is a
26 member of the Kansas historic theatre association.

27 (m) “Historic theater sales tax increment” means the amount of state
28 and local sales *and utility excise* tax revenue imposed pursuant to K.S.A.
29 12-187 *et seq.*, 79-3601 *et seq.* ~~and~~, 79-3701 *et seq.* *and the Kansas utility*
30 *excise tax act*, and amendments thereto, collected from taxpayers doing
31 business within the historic theater that is in excess of the amount of such
32 taxes collected prior to the designation of the building as a historic theater
33 for purposes of this act.

34 (n) “Major tourism area” means an area for which the secretary has
35 made a finding the capital improvements costing not less than
36 \$100,000,000 will be built in the state to construct an auto race track
37 facility.

38 (o) “Real property taxes” means all taxes levied on an ad valorem basis
39 upon land and improvements thereon.

40 (p) “Redevelopment project area” or “project area” means an area
41 designated by a city within a redevelopment district.

42 (q) “Redevelopment project costs” means those costs necessary to
43 implement a redevelopment plan, including, but not limited to costs in-

1 curred for:

- 2 (1) Acquisition of property within the redevelopment project area;
- 3 (2) payment of relocation assistance;
- 4 (3) site preparation including utility relocations;
- 5 (4) sanitary and storm sewers and lift stations;
- 6 (5) drainage conduits, channels and levees;
- 7 (6) street grading, paving, graveling, macadamizing, curbing, gutter-
- 8 ing and surfacing;
- 9 (7) street light fixtures, connection and facilities;
- 10 (8) underground gas, water, heating and electrical services and con-
- 11 nections located within the public right-of-way;
- 12 (9) sidewalks and pedestrian underpasses or overpasses;
- 13 (10) drives and driveway approaches located within the public right-
- 14 of-way;
- 15 (11) water mains and extensions;
- 16 (12) plazas and arcades;
- 17 (13) parking facilities;
- 18 (14) landscaping and plantings, fountains, shelters, benches, sculp-
- 19 tures, lighting, decorations and similar amenities; and
- 20 (15) all related expenses to redevelop and finance the redevelopment
- 21 project.

22 Redevelopment project costs shall not include costs incurred in con-
23 nection with the construction of buildings or other structures to be owned
24 by or leased to a developer, however, the “redevelopment project costs”
25 shall include costs incurred in connection with the construction of build-
26 ings or other structures to be owned or leased to a developer which in-
27 cludes an auto race track facility or is in a redevelopment district including
28 some or all of the land and buildings comprising a state mental institution
29 closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of
30 Kansas.

31 (r) “Redevelopment district” means the specific area declared to be
32 an eligible area in which the city may develop one or more redevelopment
33 projects.

34 (s) “Redevelopment district plan” or “district plan” means the pre-
35 liminary plan that identifies all of the proposed redevelopment project
36 areas and identifies in a general manner all of the buildings, facilities and
37 improvements in each that are proposed to be constructed or improved
38 in each redevelopment project area.

39 (t) “Redevelopment project” means the approved project to imple-
40 ment a project plan for the development of the established redevelop-
41 ment district.

42 (u) “Redevelopment project plan” or “project plan” means the plan
43 adopted by a municipality for the development of a redevelopment pro-

1 ject or projects which conforms with K.S.A. 12-1772, and amendments
2 thereto, in a redevelopment district.

3 (v) "Secretary" means the secretary of commerce and housing.

4 (w) "Substantial change" means, as applicable, a change wherein the
5 proposed plan or plans differ substantially from the intended purpose for
6 which the district plan or project plan was approved.

7 (x) "Tax increment" means that amount of real property taxes col-
8 lected from real property located within the redevelopment district that
9 is in excess of the amount of real property taxes which is collected from
10 the base year assessed valuation.

11 (y) "Taxing subdivision" means the county, city, unified school district
12 and any other taxing subdivision levying real property taxes, the territory
13 or jurisdiction of which includes any currently existing or subsequently
14 created redevelopment district.

15 Sec. 10. K.S.A. 12-1774 is hereby amended to read as follows: 12-
16 1774. (a) (1) Any city shall have the power to issue special obligation bonds
17 in one or more series to finance the undertaking of any redevelopment
18 project in accordance with the provisions of this act. Such special obli-
19 gation bonds shall be made payable, both as to principal and interest:

20 (A) From tax increments allocated to, and paid into a special fund of
21 the city under the provisions of K.S.A. 12-1775, and amendments thereto;

22 (B) from revenues of the city derived from or held in connection with
23 the undertaking and carrying out of any redevelopment project or projects
24 under this act including historic theater sales tax increments and envi-
25 ronmental increments;

26 (C) from any private sources, contributions or other financial assis-
27 tance from the state or federal government;

28 (D) from a pledge of a portion or all of the revenue received by the
29 city from transient guest, sales and use taxes *and utility excise taxes* col-
30 lected pursuant to K.S.A. 12-1696 *et seq.*, 79-3601 *et seq.*, 79-3701 *et seq.*
31 ~~and~~, 12-187 *et seq.*, *and this act*, and amendments thereto, and which are
32 collected from taxpayers doing business within that portion of the city's
33 redevelopment district established pursuant to K.S.A. 12-1771, and
34 amendments thereto, occupied by a redevelopment project if there first
35 is a finding by the secretary of commerce and housing that the redevel-
36 opment project will create a major tourism area for the state or if the
37 project is the restoration of a historic theater as defined in subsection (l)
38 of K.S.A. 12-1770a, and amendments thereto;

39 (E) (i) from a pledge of a portion or all increased revenue received
40 by the city from franchise fees collected from utilities and other busi-
41 nesses using public right-of-way within the redevelopment district; (ii)
42 from a pledge of a portion or all of the revenue received by the city from
43 sales *and utility excise taxes* collected pursuant to K.S.A. 12-187 *and this*

1 *act*, and amendments thereto; or

2 (F) by any combination of these methods.

3 The city may pledge such revenue to the repayment of such special
4 obligation bonds prior to, simultaneously with, or subsequent to the is-
5 suance of such special obligation bonds.

6 (2) Bonds issued under paragraph (1) of subsection (a) shall not be
7 general obligations of the city, nor in any event shall they give rise to a
8 charge against its general credit or taxing powers, or be payable out of
9 any funds or properties other than any of those set forth in paragraph (1)
10 of this subsection and such bonds shall so state on their face.

11 (3) Bonds issued under the provisions of paragraph (1) of this sub-
12 section shall be special obligations of the city and are declared to be
13 negotiable instruments. They shall be executed by the mayor and clerk
14 of the city and sealed with the corporate seal of the city. All details per-
15 taining to the issuance of such special obligation bonds and terms and
16 conditions thereof shall be determined by ordinance of the city. All special
17 obligation bonds issued pursuant to this act and all income or interest
18 therefrom shall be exempt from all state taxes except inheritance taxes.
19 Such special obligation bonds shall contain none of the recitals set forth
20 in K.S.A. 10-112, and amendments thereto. Such special obligation bonds
21 shall, however, contain the following recitals, viz., the authority under
22 which such special obligation bonds are issued, they are in conformity
23 with the provisions, restrictions and limitations thereof, and that such
24 special obligation bonds and the interest thereon are to be paid from the
25 money and revenue received as provided in paragraph (1) of this
26 subsection.

27 (b) (1) Subject to the provisions of paragraph (2) of this subsection,
28 any city shall have the power to issue full faith and credit tax increment
29 bonds to finance the undertaking of any redevelopment project in ac-
30 cordance with the provisions of K.S.A. 12-1770 *et seq.*, and amendments
31 thereto other than a project that will create a major tourism area or result
32 in the renovation of an historic theater. Such full faith and credit tax
33 increment bonds shall be made payable, both as to principal and interest:
34 (A) From the revenue sources identified in paragraph (1)(A), (B), (C),
35 (D) and (E) of subsection (a) or by any combination of these sources; and
36 (B) subject to the provisions of paragraph (2) of this subsection, from a
37 pledge of the city's full faith and credit to use its ad valorem taxing au-
38 thority for repayment thereof in the event all other authorized sources of
39 revenue are not sufficient.

40 (2) Except as provided in paragraph (3) of this subsection, before the
41 governing body of any city proposes to issue full faith and credit tax in-
42 crement bonds as authorized by this subsection, the feasibility study re-
43 quired by K.S.A. 12-1772, and amendments thereto, shall demonstrate

1 that the benefits derived from the project will exceed the cost and that
2 the income therefrom will be sufficient to pay the costs of the project.
3 No full faith and credit tax increment bonds shall be issued unless the
4 governing body states in the resolution required by K.S.A. 12-1772, and
5 amendments thereto, that it may issue such bonds to finance the proposed
6 redevelopment project. The governing body may issue the bonds unless
7 within 60 days following the date of the public hearing on the proposed
8 project plan a protest petition signed by 3% of the qualified voters of the
9 city is filed with the city clerk in accordance with the provisions of K.S.A.
10 25-3601 *et seq.*, and amendments thereto. If a sufficient petition is filed,
11 no full faith and credit tax increment bonds shall be issued until the
12 issuance of the bonds is approved by a majority of the voters voting at an
13 election thereon. Such election shall be called and held in the manner
14 provided by the general bond law. The failure of the voters to approve
15 the issuance of full faith and credit tax increment bonds shall not prevent
16 the city from issuing special obligation bonds in accordance with K.S.A.
17 12-1774, and amendments thereto. No such election shall be held in the
18 event the board of county commissioners or the board of education de-
19 termines, as provided in K.S.A. 12-1771, and amendments thereto, that
20 the proposed redevelopment district will have an adverse effect on the
21 county or school district.

22 (3) As an alternative to paragraph (2) of this subsection, any city which
23 adopts a project plan but does not state its intent to issue full faith and
24 credit tax increment bonds in the resolution required by K.S.A. 12-1772,
25 and amendments thereto, and has not acquired property in the redevel-
26 opment project area may issue full faith and credit tax increment bonds
27 if the governing body of the city adopts a resolution stating its intent to
28 issue the bonds and the issuance of the bonds is approved by a majority
29 of the voters voting at an election thereon. Such election shall be called
30 and held in the manner provided by the general bond law. The failure of
31 the voters to approve the issuance of full faith and credit tax increment
32 bonds shall not prevent the city from issuing special obligation bonds
33 pursuant to paragraph (1) of subsection (a). Any project plan adopted by
34 a city prior to the effective date of this act in accordance with K.S.A. 12-
35 1772, and amendments thereto, shall not be invalidated by any require-
36 ments of this act.

37 (4) During the progress of any redevelopment project in which the
38 redevelopment project costs will be financed, in whole or in part, with
39 the proceeds of full faith and credit tax increment bonds, the city may
40 issue temporary notes in the manner provided in K.S.A. 10-123, and
41 amendments thereto, to pay the redevelopment project costs for the pro-
42 ject. Such temporary notes shall not be issued and the city shall not ac-
43 quire property in the redevelopment project area until the requirements

1 of paragraph (2) or (3) of this subsection, whichever is applicable, have
2 been met.

3 (5) Full faith and credit tax increment bonds issued under this sub-
4 section shall be general obligations of the city and are declared to be
5 negotiable instruments. They shall be issued in accordance with the gen-
6 eral bond law. All such bonds and all income or interest therefrom shall
7 be exempt from all state taxes except inheritance taxes. The amount of
8 the full faith and credit tax increment bonds issued and outstanding which
9 exceeds 3% of the assessed valuation of the city shall be within the bonded
10 debt limit applicable to such city.

11 (6) Any city issuing special obligation bonds under the provisions of
12 this act may refund all or part of such issue pursuant to the provisions of
13 K.S.A. 10-116a, and amendments thereto.

14 (c) Any increment in ad valorem property taxes resulting from a re-
15 development project in the established redevelopment district under-
16 taken in accordance with the provisions of this act, shall be apportioned
17 to a special fund for the payment of the redevelopment project costs,
18 including the payment of principal and interest on any special obligation
19 bonds or full faith and credit tax increment bonds issued to finance such
20 project pursuant to this act and may be pledged to the payment of prin-
21 cipal and interest on such bonds.

22 Sec. 11. K.S.A. 13-13a38 is hereby amended to read as follows: 13-
23 13a38. (a) The board of regents of Washburn University of Topeka may
24 adopt a resolution imposing a countywide retailers' sales tax *and utility*
25 *excise tax* within Shawnee county. Such resolution shall be published once
26 each week for two consecutive weeks in the Shawnee county official news-
27 paper. The rate of any such tax shall not exceed .65%. Such university is
28 prohibited from administering or collecting such tax locally, but shall util-
29 ize the services of the state department of revenue to administer, enforce
30 and collect such tax. Except as otherwise provided by K.S.A. 13-13a39,
31 and amendments thereto, such tax shall be identical in its application and
32 exemptions therefrom to the Kansas retailers' sales tax act *and the Kansas*
33 *utility excise tax act*, and all laws and rules and regulations of the state
34 department of revenue relating to the Kansas retailers' sales tax act *and*
35 *the Kansas utility excise tax act* shall apply to such tax insofar as the same
36 may be made applicable.

37 (b) The secretary of revenue is authorized to administer, enforce and
38 collect the university's retailers' sales tax *and utility excise tax* and to adopt
39 such rules and regulations necessary for the efficient and effective ad-
40 ministration, enforcement and collection thereof. The state director of
41 taxation shall cause such taxes to be collected within the boundaries of
42 Shawnee county at the same time and in the same manner provided for
43 the collection of the state retailers' sales tax *and utility excise tax*. All

1 moneys collected by the director of taxation pursuant to the provisions of
2 this section shall be remitted to the state treasurer in accordance with
3 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
4 of each such remittance, the state treasurer shall deposit the entire
5 amount in the state treasury to the credit of the Washburn University of
6 Topeka retailers' sales tax fund *or the utility excise tax fund*, which ~~fund~~
7 ~~is funds are~~ hereby established in the state treasury. Any refund due on
8 any tax collected pursuant to this section shall be paid out of the sales tax
9 refund fund *or the utility excise tax fund* and reimbursement to such fund
10 shall be made by the director of taxation from collections of the univer-
11 sity's sales *or utility excise* tax revenue. All moneys collected pursuant to
12 this section for such university shall be remitted at least quarterly by the
13 state treasurer to the treasurer of such university.

14 (c) All revenue received by Washburn University of Topeka from its
15 retailers' sales *and utility excise* tax shall be used solely for the purpose
16 of financing its operations regarding all support activities described by
17 K.S.A. 13-13a18, and amendments thereto.

18 (d) If within 30 days of the final publication of a resolution adopted
19 pursuant to subsection (a), a petition signed by a number of electors of
20 the county equal to not less than 5% of the number of qualified electors
21 of the county shall be filed in the office of the county election officer
22 demanding that such resolution be submitted to a vote of the electors, it
23 shall not take effect until submitted to a referendum and approved by
24 the electors. An election if called, shall be called within 30 days and held
25 within 45 days after the filing of the petition. The board, by resolution,
26 shall call the election and fix the date. Such resolution shall be published
27 once each week for two consecutive weeks in the official county news-
28 paper, and the election shall be conducted in the same manner as are
29 elections for officers of such county. Such election may be conducted in
30 accordance with the provisions of the mail ballot election act. The prop-
31 osition shall be: "Shall Washburn University of Topeka be authorized to
32 impose a countywide sales tax not to exceed .65% in Shawnee county for
33 purposes of eliminating 15 mills of ad valorem property taxes now levied
34 by the university and eliminating the payment of out-district tuition by
35 the townships within Shawnee county to the university?"

36 (e) The provisions of K.S.A. 12-191 and 12-191a, and amendments
37 thereto, insofar as may be made applicable, shall apply to sales subject to
38 the tax imposed pursuant to this section.

39 Sec. 12. K.S.A. 2001 Supp. 74-50,114 is hereby amended to read as
40 follows: 74-50,114. As used in K.S.A. 74-50,113 through 74-50,117 and
41 amendments thereto:

42 (a) "Ancillary support" means a facility which is operated by a busi-
43 ness and whose function is to provide services in support of the business,

1 but is not directly engaged in the business' primary function.

2 (b) "Business" means any manufacturing business or nonmanufac-
3 turing business.

4 (c) "Business headquarters" means a facility where principal officers
5 of the business are housed and from which direction, management or
6 administrative support for transactions is provided for a business or di-
7 vision of a business or regional division of a business.

8 (d) "Full-time employee" means a person who is required to file a
9 Kansas income tax return and who is employed by a business or retail
10 business to perform duties in connection with the operation of the busi-
11 ness or retail business on:

12 (1) A regular, full-time basis;

13 (2) a part-time basis, provided such person is customarily performing
14 such duties at least 20 hours per week throughout the taxable year; or

15 (3) a seasonal basis, provided such person performs such duties for
16 substantially all of the season customary for the position in which such
17 person is employed. The number of full-time employees during any tax-
18 able year shall be determined by dividing by 12 the sum of the number
19 of full-time employees on the last business day of each month of such
20 taxable year. If the business or retail business is in operation for less than
21 the entire taxable year, the number of full-time employees shall be de-
22 termined by dividing the sum of the number of full-time employees on
23 the last business day of each full calendar month during the portion of
24 such taxable year during which the business was in operation by the num-
25 ber of full calendar months during such period.

26 (e) "Manufacturing business" means all commercial enterprises iden-
27 tified under the manufacturing standard industrial classification codes,
28 major groups 20 through 39.

29 (f) "Metropolitan county" means the county of Douglas, Johnson,
30 Leavenworth, Sedgwick, Shawnee or Wyandotte.

31 (g) "Nonmanufacturing business" means any commercial enterprise
32 other than a manufacturing business or a retail business. Nonmanufac-
33 turing business shall also include the business headquarters of an enter-
34 prise, ancillary support of an enterprise, and an enterprise designated
35 under standard industrial classification codes 5961, 7948-0201 or 7372
36 regardless of the firm's classification as a retail business if that facility for
37 which the sales *or utility excise* tax exemption certificate is issued facili-
38 tates the creation of at least 20 new full-time positions. In addition, with
39 respect to enterprises in standard industrial classification code 7948-0201,
40 such enterprises must operate an auto racetrack in the state involving
41 capital improvements costing not less than \$100,000,000.

42 For taxable years commencing after December 31, 1997, any ancillary
43 support business which would otherwise be eligible for a sales tax ex-

1 exemption or an income, premium or privilege tax credit pursuant to this
2 subsection shall incorporate in its tax filing for the exemption or credit a
3 statement from the secretary of commerce and housing which includes a
4 finding by the secretary that the job expansion incident to the exemption
5 or credit claimed would not have occurred in the absence of the credit
6 or exemption.

7 (h) “Nonmetropolitan region” means a region established under
8 K.S.A. 74-50,116 and amendments thereto and is comprised of any county
9 or counties which are not metropolitan counties.

10 (i) “Retail business” means: (1) Any commercial enterprise primarily
11 engaged in the sale at retail of goods or services taxable under the Kansas
12 retailers’ sales tax act or the *Kansas utility excise tax act*; (2) any service
13 provider set forth in K.S.A. 17-2707, and amendments thereto; (3) any
14 bank, savings and loan or other lending institution; (4) any commercial
15 enterprise whose primary business activity includes the sale of insurance;
16 and (5) any commercial enterprise deriving its revenues directly from
17 noncommercial customers in exchange for personal services such as, but
18 not limited to, barber shops, beauty shops, photographic studios and fun-
19 eral services.

20 (j) “Secretary” means the secretary of the Kansas department of com-
21 merce and housing.

22 (k) “Standard industrial classification code” means a standard indus-
23 trial classification code published in the Standard Industrial Classification
24 manual, 1987, as prepared by the statistical policy division of the office
25 of management and budget of the office of the president of the United
26 States of America.

27 Sec. 13. K.S.A. 2001 Supp. 74-8017 is hereby amended to read as
28 follows: 74-8017. (a) On and after January 1, 2003, it shall be the duty of
29 Kansas, Inc. to prepare an annual report evaluating the cost effectiveness
30 of the various income tax credits and sales tax exemptions enacted to
31 encourage economic development within this state and submit the same
32 to the standing committees on taxation and economic development of the
33 house and assessment and taxation and commerce of the senate at the
34 beginning of each regular session of the legislature. The secretary of rev-
35 enue shall develop a questionnaire on the utilization of state income tax
36 credits and sales tax exemptions that shall be completed by all corporate
37 taxpayers subject to state income tax that shall be submitted to the de-
38 partment of revenue concurrently with the filing of an annual corporate
39 income tax return. The questionnaire shall require respondents to indi-
40 cate utilization of the following credits and exemptions:

41 (1) Income tax credits authorized under the provisions of the job
42 expansion and investment credit act of 1976 and acts amendatory thereof
43 and supplemental thereto;

1 (2) income tax credits for expenditures in research and development
2 activities authorized by K.S.A. 79-32,182, and amendments thereto;

3 (3) income and financial institutions privilege tax credits for cash in-
4 vestment in stock of Kansas Venture Capital, Inc. authorized by K.S.A.
5 74-8205 and 74-8206, and amendments thereto;

6 (4) income tax credits for cash investment in certified Kansas venture
7 capital companies authorized by K.S.A. 74-8304, and amendments
8 thereto;

9 (5) income tax credits for cash investment in certified local seed cap-
10 ital pools authorized by K.S.A. 74-8401, and amendments thereto;

11 (6) income tax credits for investment in the training and education of
12 qualified firms' employees authorized by K.S.A. 2001 Supp. 74-50,132,
13 and amendments thereto;

14 (7) sales *and utility excise* tax exemptions for property or services
15 purchased for the purpose of and in conjunction with constructing, re-
16 constructing, enlarging or remodeling a business, or retail business meet-
17 ing the requirements of K.S.A. 74-50,115, and amendments thereto, and
18 machinery and equipment for installation at such business or retail busi-
19 ness authorized by subsection (cc) of K.S.A. 79-3606, and amendments
20 thereto; and

21 (8) sales tax exemptions for machinery and equipment used directly
22 and primarily for the purposes of manufacturing, assembling, processing,
23 finishing, storing, warehousing or distributing articles of tangible personal
24 property in this state intended for resale by a manufacturing or processing
25 plant or facility or a storage, warehousing or distribution facility. The
26 secretary of revenue shall provide the completed questionnaires and cop-
27 ies of sales tax exemption certificates to Kansas, Inc. for the preparation
28 of such report.

29 (b) Prior to the commencement of the 2002 legislative session, Kan-
30 sas, Inc. and the Kansas department of revenue shall agree upon proce-
31 dures for the purpose of disclosure of corporate and individual taxpayer
32 information to fulfill the purposes of this section and protect sensitive
33 taxpayer information to the extent possible consistent with this section.
34 Such procedures shall be submitted to an appropriate committee at the
35 commencement of such session in the form of a proposed bill.

36 Sec. 14. K.S.A. 2001 Supp. 74-8927 is hereby amended to read as
37 follows: 74-8927. (a) Until the earlier of: (1) The date the bonds issued
38 to finance or refinance the redevelopment undertaken in the redevel-
39 opment district have been paid in full; or (2) the final scheduled maturity
40 date of the first series of bonds issued to finance the redevelopment
41 project, all revenues collected or received from the state transient guest
42 tax established pursuant to K.S.A. 2001 Supp. 79-5301 through 79-5304,
43 and amendments thereto, any revenue from a county or countywide re-

1 tailers' sales tax levied or collected under K.S.A. 2001 Supp. 74-8929, and
2 amendments thereto, the state retailers' sales tax pursuant to K.S.A. 79-
3 3603, and amendments thereto, ~~and~~ the state compensating use tax, pur-
4 suant to K.S.A. 79-3703, and amendments thereto, *and the Kansas utility*
5 *excise tax*, which have been certified by the director of taxation to have
6 been derived from taxpayers located in a redevelopment district shall be
7 remitted to the state treasurer in accordance with the provisions of K.S.A.
8 75-4215, and amendments thereto. Upon receipt of each such remittance,
9 the state treasurer shall deposit the entire amount in the state treasury.

10 (b) The state treasurer shall credit all such revenues to the redevel-
11 opment bond fund which is hereby established in the state treasury. The
12 state treasurer shall make such biannual distributions on dates mutually
13 agreed upon by the treasurer and the authority. The authority shall use
14 all such moneys received pursuant to this section to pay the costs of a
15 redevelopment project of statewide as well as local importance as de-
16 scribed in K.S.A. 74-8902, and amendments thereto. Any revenues not
17 needed or committed for the payment of bonds or other project costs as
18 authorized by the redevelopment plan implementation agreement shall
19 upon approval by the authority be remitted by the state treasurer pro-
20 portionately to the appropriate taxing authorities.

21 Sec. 15. K.S.A. 2001 Supp. 74-8929 is hereby amended to read as
22 follows: 74-8929. (a) Whenever a redevelopment district is proposed to
23 be established pursuant to K.S.A. 2001 Supp. 74-8921, and amendments
24 thereto, the governing body of the county in which the redevelopment
25 district is proposed to be located may, in addition to any countywide
26 retailers' sales tax authorized by K.S.A. 12-187, and amendments thereto,
27 *and any utility excise tax*, or other specific statutory provisions, adopt and
28 impose a county retailers' sales tax *and a local utility excise tax* at a rate
29 of .5% within the redevelopment district, without submitting the question
30 to an election and all revenue derived from the county retailers' sales *and*
31 *utility excise* tax levied under this subsection shall be pledged for the
32 purposes of financing the redevelopment plan.

33 (b) Notwithstanding any other statutory provision to the contrary,
34 whenever the governing body of a county adopts and imposes the ~~county~~
35 ~~retailers' sales~~ tax authorized under subsection (a), then all revenue that
36 is derived from a countywide retailers' sales tax imposed by such county
37 pursuant to K.S.A. 12-187, and amendments thereto, *and from a local*
38 *utility excise tax* from taxpayers within the redevelopment district, except
39 those portions of such taxes which have otherwise been expressly dedi-
40 cated for other purposes by a prior pledge of such county or by author-
41 izing statute or voter approval, shall be considered to be dedicated for
42 purposes of the redevelopment district and upon collection by the direc-
43 tor of taxation, such revenues shall be remitted to the state treasurer in

1 accordance with the provisions of K.S.A. 75-4215, and amendments
2 thereto. Upon receipt of each such remittance, the state treasurer shall
3 deposit the entire amount in the state treasury to the credit of the re-
4 development bond fund established pursuant to K.S.A. 2001 Supp. 74-
5 8927, and amendments thereto.

6 (c) All revenue derived from a ~~county retailers' sales~~ tax imposed
7 under subsection (a) and collected under subsection (b) shall upon col-
8 lection, be remitted to the state treasurer, as provided by K.S.A. 2001
9 Supp. 74-8927, and amendments thereto, and may be pledged and used
10 by the authority in like manner as other revenues collected or received
11 under K.S.A. 2001 Supp. 74-8927, and amendments thereto. Whenever
12 the authority has proposed to issue bonds pursuant to subsection (e) of
13 K.S.A. 74-8905, and amendments thereto, the ~~county retailers' sales~~
14 tax imposed under subsection (a) and the revenue collected under subsection
15 (b) shall remain in effect and may not be reduced or rescinded by the
16 governing body of the county until such time as the bonds have been fully
17 paid. When such bonds have been fully paid, then (1) the ~~county retailers'~~
18 ~~sales~~ tax imposed under subsection (a) shall expire, unless otherwise re-
19 newed by action of the governing body of the county for purposes of
20 implementing additional projects authorized under the redevelopment
21 plan for the redevelopment district; and (2) the revenues to be collected
22 under subsection (b) may be rededicated for other purposes by resolution
23 of the governing body of such county and if not so rededicated then the
24 revenues thereafter collected shall be used only for approved and au-
25 thorized costs in the redevelopment district in accordance with the re-
26 development plan. Upon rededication of the revenues under subsection
27 (b), or in the event that no future redevelopment projects or authorized
28 costs remain for the redevelopment district, the revenues derived from
29 the ~~countywide retailers' sales~~ tax covered under subsection (b) shall
30 thereafter be distributed to the county treasurer as required under K.S.A.
31 12-192, and amendments thereto.

32 Sec. 16. K.S.A. 2001 Supp. 74-8937 is hereby amended to read as
33 follows: 74-8937. (a) Any bonds issued by the authority under subsection
34 (f) of K.S.A. 74-8905, and amendments thereto, to finance the undertak-
35 ing of the project in accordance with the provisions of this act, shall be
36 made payable, both as to principal and interest:

37 (1) from revenues of the college or the foundation derived from or
38 held in connection with the undertaking and carrying out of any rede-
39 velopment plan under this act;

40 (2) from any private sources, contributions or other financial assis-
41 tance from the state or federal government;

42 (3) from sales *and utility excise* tax increments from any sales *or util-*
43 *ity excise* taxes collected within the boundaries of the project area as

1 described by the resolution of the board of trustees; or

2 (4) by any combination of these methods.

3 (b) Such revenue may be pledged to the repayment of such bonds
4 prior to, simultaneously with or subsequent to the issuance of such bonds.

5 (c) No funds derived from student tuition shall be used to pay the
6 principal or interest on bonds issued by the authority under subsection
7 (f) of K.S.A. 74-8905, and amendments thereto.

8 Sec. 17. K.S.A. 2001 Supp. 74-8938 is hereby amended to read as
9 follows: 74-8938. (a) Until the date the bonds issued to finance the project
10 undertaken in the project area have been paid in full, any revenue realized
11 from sales tax from a countywide retailers' sales tax imposed and collected
12 under K.S.A. 12-187 and amendments thereto, the state retailers' sales
13 tax pursuant to K.S.A. 79-3603, and amendments thereto, *or utility excise*
14 *tax authorized and imposed pursuant to this act*, which have been certi-
15 fied by the director of taxation to have been derived from taxpayers lo-
16 cated in the project area shall be remitted to the state treasurer.

17 (b) The state treasurer shall transfer all such revenues to the fund
18 established by the authority. The state treasurer shall make such distri-
19 butions on dates mutually agreed upon by the treasurer and the authority.
20 The authority shall use all such moneys received pursuant to this section
21 to pay the costs of the project. Any revenues not needed or committed
22 for the payment of bonds as determined by the authority may be remitted
23 by the state treasurer proportionately to the appropriate taxing
24 subdivisions.

25 Sec. 18. K.S.A. 2001 Supp. 79-34,147 is hereby amended to read as
26 follows: 79-34,147. (a) (1) On July 1, 1999, and quarterly thereafter the
27 secretary of revenue shall certify to the director of accounts and reports
28 the amount equal to 7.628% of the total revenues received by the sec-
29 retary from the taxes imposed under the Kansas retailers' sales tax act
30 *and the Kansas utility excise tax act* and deposited in the state treasury
31 and credited to the state general fund during the preceding three calendar
32 months.

33 (2) On July 1, 2001, and quarterly thereafter, the secretary of revenue
34 shall certify to the director of accounts and reports the amount equal to
35 9.5% of the total revenues received by the secretary from the taxes im-
36 posed under the Kansas retailers' sales tax act *and the Kansas utility excise*
37 *tax act* and deposited in the state treasury and credited to the state general
38 fund during the preceding three calendar months.

39 (3) On July 1, 2002, and quarterly thereafter, the secretary of revenue
40 shall certify to the director of accounts and reports the amount equal to
41 11% of the total revenues received by the secretary from the taxes im-
42 posed under the Kansas retailers' sales tax act *and the Kansas utility excise*
43 *tax act* and deposited in the state treasury and credited to the state general

1 fund during the preceding three calendar months.

2 (4) On July 1, 2003, and quarterly thereafter, the secretary of revenue
3 shall certify to the director of accounts and reports the amount equal to
4 11.25% of the total revenues received by the secretary from the taxes
5 imposed under the Kansas retailers' sales tax act *and the Kansas utility*
6 *excise tax act* and deposited in the state treasury and credited to the state
7 general fund during the preceding three calendar months.

8 (5) On July 1, 2004, and quarterly thereafter, the secretary of revenue
9 shall certify to the director of accounts and reports the amount equal to
10 12% of the total revenues received by the secretary from the taxes im-
11 posed under the Kansas retailers' sales tax act *and the Kansas utility excise*
12 *tax act* and deposited in the state treasury and credited to the state general
13 fund during the preceding three calendar months.

14 (b) Upon receipt of each certification under subsection (a), the di-
15 rector of accounts and reports shall transfer from the state general fund
16 to the state highway fund an amount equal to the amount so certified, on
17 each July 1, October 1, January 1 and April 1, except that the amount of
18 the transfer on each such date during state fiscal year 2002 shall not
19 exceed \$30,277,162. All transfers made pursuant to this section are sub-
20 ject to reduction under K.S.A. 75-6704, and amendments thereto.

21 (c) All transfers made in accordance with the provisions of this section
22 shall be considered to be demand transfers from the state general fund.

23 Sec. 19. K.S.A. 79-34,148 is hereby amended to read as follows: 79-
24 34,148. On or before each December 1, the secretary of revenue shall
25 determine the percentage of the total estimated revenues to be received
26 under the Kansas retailers' sales tax act *and the Kansas utility excise tax*
27 *act* and credited to the state general fund during the fiscal year com-
28 mencing on the ensuing July 1 which represents that portion of such
29 estimated revenues which are attributable to the retail sale of new and
30 used motor vehicles intended for use on the highways of this state. Upon
31 making such determination, the secretary of revenue shall certify such
32 percentage to the director of the budget and to the director of the leg-
33 islative research department.

34 Sec. 20. K.S.A. 2001 Supp. 79-3602 is hereby amended to read as
35 follows: 79-3602. (a) "Persons" means any individual, firm, copartnership,
36 joint adventure, association, corporation, estate or trust, receiver or trust-
37 tee, or any group or combination acting as a unit, and the plural as well
38 as the singular number; and shall specifically mean any city or other po-
39 litical subdivision of the state of Kansas engaging in a business or provid-
40 ing a service specifically taxable under the provisions of this act.

41 (b) "Director" means the state director of taxation.

42 (c) "Sale" or "sales" means the exchange of tangible personal prop-
43 erty, as well as the sale thereof for money, and every transaction, condi-

1 tional or otherwise, for a consideration, constituting a sale, including the
2 sale or furnishing of ~~electrical energy, gas, water,~~ services or entertain-
3 ment taxable under the terms of this act and including, except as provided
4 in the following provision, the sale of the use of tangible personal property
5 by way of a lease, license to use or the rental thereof regardless of the
6 method by which the title, possession or right to use the tangible personal
7 property is transferred. The term “sale” or “sales” shall not mean the sale
8 of the use of any tangible personal property used as a dwelling by way of
9 a lease or rental thereof for a term of more than 28 consecutive days.

10 (d) “Retailer” means a person regularly engaged in the business of
11 selling tangible personal property at retail or furnishing ~~electrical energy,~~
12 ~~gas, water,~~ services or entertainment, and selling only to the user or con-
13 sumer and not for resale.

14 (e) “Retail sale” or “sale at retail” means all sales made within the
15 state of tangible personal property ~~or electrical energy, gas, water,~~ services
16 or entertainment for use or consumption and not for resale.

17 (f) “Tangible personal property” means corporeal personal property.
18 Such term shall include: (1) Any computer software program which is not
19 a custom computer software program, as described by subsection (s) of
20 K.S.A. 79-3603, and amendments thereto; and (2) any prepaid telephone
21 calling card or prepaid authorization number, or recharge of such card
22 or number, as described by subsection (b) of K.S.A. 79-3603, and amend-
23 ments thereto.

24 (g) “Selling price” means the total cost to the consumer exclusive of
25 discounts allowed and credited, but including freight and transportation
26 charges from retailer to consumer.

27 (h) “Gross receipts” means the total selling price or the amount re-
28 ceived as defined in this act, in money, credits, property or other consid-
29 eration valued in money from sales at retail within this state; and em-
30 braced within the provisions of this act. The taxpayer, may take credit in
31 the report of gross receipts for: (1) An amount equal to the selling price
32 of property returned by the purchaser when the full sale price thereof,
33 including the tax collected, is refunded in cash or by credit; and (2) an
34 amount equal to the allowance given for the trade-in of property.

35 (i) “Taxpayer” means any person obligated to account to the director
36 for taxes collected under the terms of this act.

37 (j) “Isolated or occasional sale” means the nonrecurring sale of tan-
38 gible personal property, or services taxable hereunder by a person not
39 engaged at the time of such sale in the business of selling such property
40 or services. Any religious organization which makes a nonrecurring sale
41 of tangible personal property acquired for the purpose of resale shall be
42 deemed to be not engaged at the time of such sale in the business of
43 selling such property. Such term shall include: (1) Any sale by a bank,

1 savings and loan institution, credit union or any finance company licensed
2 under the provisions of the Kansas uniform consumer credit code of tan-
3 gible personal property which has been repossessed by any such entity;
4 and (2) any sale of tangible personal property made by an auctioneer or
5 agent on behalf of not more than two principals or households if such
6 sale is nonrecurring and any such principal or household is not engaged
7 at the time of such sale in the business of selling tangible personal
8 property.

9 (k) "Service" means those services described in and taxed under the
10 provisions of K.S.A. 79-3603 and amendments thereto.

11 (l) "Ingredient or component part" means tangible personal property
12 which is necessary or essential to, and which is actually used in and be-
13 comes an integral and material part of tangible personal property or serv-
14 ices produced, manufactured or compounded for sale by the producer,
15 manufacturer or compounder in its regular course of business. The fol-
16 lowing items of tangible personal property are hereby declared to be
17 ingredients or component parts, but the listing of such property shall not
18 be deemed to be exclusive nor shall such listing be construed to be a
19 restriction upon, or an indication of, the type or types of property to be
20 included within the definition of "ingredient or component part" as
21 herein set forth:

22 (1) Containers, labels and shipping cases used in the distribution of
23 property produced, manufactured or compounded for sale which are not
24 to be returned to the producer, manufacturer or compounder for reuse.

25 (2) Containers, labels, shipping cases, paper bags, drinking straws,
26 paper plates, paper cups, twine and wrapping paper used in the distri-
27 bution and sale of property taxable under the provisions of this act by
28 wholesalers and retailers and which is not to be returned to such whole-
29 saler or retailer for reuse.

30 (3) Seeds and seedlings for the production of plants and plant prod-
31 ucts produced for resale.

32 (4) Paper and ink used in the publication of newspapers.

33 (5) Fertilizer used in the production of plants and plant products
34 produced for resale.

35 (6) Feed for animals, fowl and aquatic plants and animals, the primary
36 purpose of which is use in agriculture or aquaculture, as defined in K.S.A.
37 47-1901, and amendments thereto, the production of food for human
38 consumption, the production of animal, dairy, poultry or aquatic plant
39 and animal products, fiber, fur, or the production of offspring for use for
40 any such purpose or purposes.

41 (m) "Property which is consumed" means tangible personal property
42 which is essential or necessary to and which is used in the actual process
43 of and consumed, depleted or dissipated within one year in (1) the pro-

1 duction, manufacture, processing, mining, drilling, refining or compound-
2 ing of tangible personal property, (2) the providing of services, (3) the
3 irrigation of crops, for sale in the regular course of business, or (4) the
4 storage or processing of grain by a public grain warehouse or other grain
5 storage facility, and which is not reusable for such purpose. The following
6 is a listing of tangible personal property, included by way of illustration
7 but not of limitation, which qualifies as property which is consumed:

8 (A) Insecticides, herbicides, germicides, pesticides, fungicides, fu-
9 migants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals
10 for use in commercial or agricultural production, processing or storage of
11 fruit, vegetables, feeds, seeds, grains, animals or animal products whether
12 fed, injected, applied, combined with or otherwise used;

13 ~~(B) electricity, gas and water, and~~

14 ~~(C)~~ (B) petroleum products, lubricants, chemicals, solvents, reagents
15 and catalysts.

16 (n) "Political subdivision" means any municipality, agency or subdivi-
17 sion of the state which is, or shall hereafter be, authorized to levy taxes
18 upon tangible property within the state or which certifies a levy to a
19 municipality, agency or subdivision of the state which is, or shall hereafter
20 be, authorized to levy taxes upon tangible property within the state. Such
21 term also shall include any public building commission, housing, airport,
22 port, metropolitan transit or similar authority established pursuant to law.

23 (o) "Municipal corporation" means any city incorporated under the
24 laws of Kansas.

25 (p) "Quasi-municipal corporation" means any county, township,
26 school district, drainage district or any other governmental subdivision in
27 the state of Kansas having authority to receive or hold moneys or funds.

28 (q) "Nonprofit blood bank" means any nonprofit place, organization,
29 institution or establishment that is operated wholly or in part for the
30 purpose of obtaining, storing, processing, preparing for transfusing, fur-
31 nishing, donating or distributing human blood or parts or fractions of
32 single blood units or products derived from single blood units, whether
33 or not any remuneration is paid therefor, or whether such procedures are
34 done for direct therapeutic use or for storage for future use of such
35 products.

36 (r) "Educational institution" means any nonprofit school, college and
37 university that offers education at a level above the twelfth grade, and
38 conducts regular classes and courses of study required for accreditation
39 by, or membership in, the North Central Association of Colleges and
40 Schools, the state board of education, or that otherwise qualify as an
41 "educational institution," as defined by K.S.A. 74-50,103, and amend-
42 ments thereto. Such phrase shall include: (1) A group of educational in-
43 stitutions that operates exclusively for an educational purpose; (2) non-

1 profit endowment associations and foundations organized and operated
2 exclusively to receive, hold, invest and administer moneys and property
3 as a permanent fund for the support and sole benefit of an educational
4 institution; (3) nonprofit trusts, foundations and other entities organized
5 and operated principally to hold and own receipts from intercollegiate
6 sporting events and to disburse such receipts, as well as grants and gifts,
7 in the interest of collegiate and intercollegiate athletic programs for the
8 support and sole benefit of an educational institution; and (4) nonprofit
9 trusts, foundations and other entities organized and operated for the pri-
10 mary purpose of encouraging, fostering and conducting scholarly inves-
11 tigation and industrial and other types of research for the support and
12 sole benefit of an educational institution.

13 Sec. 21. K.S.A. 79-3647 is hereby amended to read as follows: 79-
14 3647. The water protection fees imposed by K.S.A. 82a-954 and amend-
15 ments thereto shall not be included in gross receipts for the purpose of
16 taxation under the Kansas ~~retailers' sales~~ *utility excise* tax act.

17 Sec. 22. K.S.A. 2001 Supp. 82a-2101 is hereby amended to read as
18 follows: 82a-2101. (a) On and after January 1, 2002, there is hereby im-
19 posed a clean drinking water fee at the rate of \$.03 per 1,000 gallons of
20 water sold at retail by a public water supply system and delivered through
21 mains, lines or pipes. Such fee shall be paid, administered, enforced and
22 collected in the manner provided for the fee imposed by subsection (a)(1)
23 of K.S.A. 82a-954, and amendments thereto. The price to the consumer
24 of water sold at retail by any such system shall not include the amount of
25 such fee.

26 (b) A public water supply system may elect to opt out of the fee
27 imposed by this section by notifying, before October 1, 2001, the Kansas
28 water office and the department of revenue of the election to opt out.
29 Such election shall be irrevocable. Such public water supply system shall
30 continue to pay all applicable sales *and utility excise* tax on direct and
31 indirect purchases of tangible personal property, *water, energy utilities*
32 and services purchased by such system.

33 (c) The director of taxation shall remit to the state treasurer in ac-
34 cordance with the provisions of K.S.A. 75-4215, and amendments thereto,
35 all moneys received or collected from the fee imposed pursuant to this
36 section. Upon receipt thereof, the state treasurer shall deposit the entire
37 amount in the state treasury and credit $\frac{5}{8}$ s thereof to the state highway
38 fund and the remainder to the state general fund.

39 Sec. 23. K.S.A. 12-189, 12-1770a, 12-1774, 13-13a38, 13-13a39, 79-
40 34,148 and 79-3647 and K.S.A. 2001 Supp. 74-50,114, 74-8017, 74-8927,
41 74-8929, 74-8937, 74-8938, 79-34,147, 79-3602 and 82a-2101 are hereby
42 repealed.

1 Sec. 24. This act shall take effect and be in force from and after
2 January 1, 2003, and its publication in the statute book.
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